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September 8, 2016

VIA EMAIL AND FIRST CLASS MAIL

The Hon. Karen V. Gregory
Secretary of Federal Maritime Commission
800 North Capitol St.
Room 1046
Washington, D.C. 20573

Re: Docket No. 15-11 – Ovchinnikov v. Hitrinov

Dear Ms. Gregory:

Enclosed for filing in the above-captioned matter are an original true copy and five (5) additional copies of:

1. Respondents' Response to Complainants' Repetitious Discovery Motion

If you have any questions, please do not hesitate to contact me.

Best regards,

Anjali Vohra

Enclosures

FEDERAL MARITIME COMMISSION

WASHINGTON, D.C.

DOCKET NO. 15-11

IGOR OVCHINNIKOV, ET AL

v.

MICHAEL HITRINOV ET AL

Consolidated With
DOCKET NO. 1953(I)

KAIRAT NURGAZINOV, ET AL

v.

MICHAEL HITRINOV ET AL

RESPONDENTS' RESPONSE TO
COMPLAINANTS' REPETITIOUS DISCOVERY MOTION

Pursuant to Rules 69 and 71, Respondents Empire United Line and Michael Hitrinov hereby respond to Complainants' repetitious motion for discovery. It is simply another sideshow, like their recent motions to supplement the record and for leave to file a sur-reply, designed to distract the Presiding Officer from Complainants' abject failure to prove subject matter jurisdiction.

Complainants' instant motion is one of several filings made by Complainants' Counsel on Friday, September 2, 2016, when Counsel's Office was purportedly closed until September 6. It is nothing more than a mini-rehash of Complainants' Motion to Strike, etc. It thus may, and

should, be denied as repetitious pursuant to Rule 69(d) (“a repetitious motion will not be entertained”).

In any event, the Complainants have shown no basis for dictating the Presiding Officer’s schedule.

The basic response to Complainants’ motion is that filed in Respondents’ Response to Complainants first Motion to Strike, etc. Respondents simply do not have such documents beyond what they already submitted in response to the Presiding Officer’s two orders to supplement the record. Respondents can no more produce documents they do not have than King Canute could stop the tide.

Moreover, even if Respondents had responsive documents, which they do not, Complainants’ claim that these might conceivably show that Complainants “have standing,” is specious. The standing issue has nothing whatsoever to do with the question whether Complainants did or did not have ownership of the vehicles at issue – that is a matter of state commercial law having nothing to do with the Shipping Act. As the Presiding Officer has recognized, the only question regarding standing is whether they paid the freight charges directly to Empire. They admit that they have not, so that issue is no longer in play.

It may be that Complainants are confusing standing with subject matter jurisdiction. But again, that issue does not turn on whether or not Complainants’ have an ownership interest in the vehicles – disputed or otherwise – but rather whether they were party to the transportation contract. As Respondents have previously demonstrated, purchase of goods is not a transportation contract and cannot suffice to bootstrap subject matter jurisdiction.

CONCLUSION

For the foregoing reasons, Complainants repetitious motion to discover non-existent documents should be denied.

Respectfully submitted,



Eric Jeffrey

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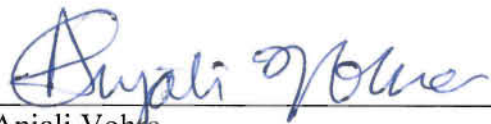
CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing Motion of Respondents' Response to Complainants' Repetitious Discovery Motion by email and first class mail to the following:

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Dated at Washington, DC, this 8th day of September, 2016.



Anjali Vohra
Counsel for Respondents